wish to say is that the Government of Mysore attach absolutely no importance to statements of that kind based as they are, I regret to say, on prejudice and on ignorance of the true position.

SECRETARY TO GOVERNMENT, DEVELOPMENT DEPARTMENT then explained to the House in Kannada the observations made by the Dewan on this subject.

RESOLUTIONS.

Resolution No. 1.

On behalf of MR. B. L. Byanna, MR. N. G. SANJEEVIAH was permitted to move the following resolution :—

"This Assembly recommends to the Government of His Highness the Maharaja that the system or method of the 'Proportional Representation' by means of the single transferable vote be forthwith abolished, since it has played its own havoc at the recent elections and that the old system be immediately revived."

In moving the resolution, he said that the object of the Government in introducing the system of proportional representation by means of the single transferable vote seemed to be that as far as possible all communities should secure representation on the public bodies. But he was sorry to find that that object of the Government had not been realised. Under the original system of voting, the majority communities were securing a certain number of seats for themselves, at the same time giving chances to other minority communities also. There was thus a certainty of some members of other minority communities also securing representation. Under the new system, however, the members of each particular community were obliged to give their first preference votes to representatives of their own community and think of giving to others only their next preference ; and thus the chances of success of these latter had become very remote. At any rate, the minority communities stood to suffer very much as a result of the introduction of the new system of voting. With a view to remedy this defect, he thought that it was best to revert to the original system of voting. With these words, he commended the resolution for the acceptance of the House.

MR. M. SUBBAIYA in seconding the resolution said that the conditions in the State were not ripe for the introduction of the new system. Unlike in other countries, well organised political parties were unknown in the State ; nor were the people educated enough yet to understand the intricacies of the new system. In fact some of the voters were not able to understand even the old system which was exceedingly simple. The new system on the other hand was a complicated one. When even members of the Representative Assembly were not able to understand its intricacies notwithstanding elaborate elucidation, it was too much to expect voters in the interior parts to understand it thoroughly. For these reasons, he thought that the old system should be reverted to.

MR. M. C. LINGE GOWDA in opposing the resolution said that under the new system, members of minority communities had greater chances of succeeding in elections than formerly. The recent elections from the Representative Assembly to the Legislative Council and to the Standing Committees had amply borne out this fact. It was absolutely necessary that every party should be represented in the constitutional bodies of the Government and from this point of view, there was every justification to enforce the new system. But by saying so, he did not mean that it should be made applicable all at once to all elections. It was all right so far as elections to the Legislative Council and the Standing Committees went, but he requested the Government to be slow in extending it to elections to other local bodies. Personally he would prefer its non-enforcement till after sufficient experience of its working was gained in the Cities so that difficulties if any in its working might be solved before its adoption in rural areas.

MR. L. VEMA REDDY also opposed the resolution. He supported the view that in the constitutional bodies of the Government all shades of opinion should be duly represented. Otherwise, they would not become perfectly representa-

tive bodies. The old system was defective in the sense that the members of particular groups had monopolised certain seats and had the upper hand in everything and the voice of others went practically unheard. That defect had been remedied by the introduction of the new system and consequently all parties had secured representation in the recent elections to the Council and the Standing Committees. For this reason he was in favour of the new system being adhered to in future also.

MR. P. SUBBARAMA CHETTY, supporting the resolution, said that as a member of the minority group of the non-Brahmin community, he had no hesitation in condemning the new system of "proportional representation." He had stood as a candidate in the elections from the Representative Assembly to the Legislative Council both under the old and new systems of elections and as such, he could claim to speak with first hand knowledge of the comparative merits of both the systems. Under the old system, it was possible to get the members to arrive at a common understanding in the matter of voting; but that was no longer possible under the new system, because, each member was led to believe that he was in duty bound to give his first preference to a candidate of his own community. Consequently, only that group which had not put up its own candidate showed any inclination to go by the merit of the candidates. Though the sponsors of the new system intended that it should secure representation to each and every group in the Assembly, their object was frustrated at the very first elections after its introduction, which took place last year, in which two important minority communities, *viz.*, Christians and Adikarnatakas, sustained a complete defeat. If this method of election was continued, he was afraid that it would tend to embitter communal feelings at a time when they were showing signs of abatement. Under the old system, a really deserving candidate, to whatever community he belonged, *i.e.*, even if he belonged to the smallest minority group, had a good chance of being returned; whereas under the new system, such a candidate could not get the general support of the voters.

MR. S. I. MUMTAZ did not agree with the previous speaker but said that the principle of proportional representation was evolved after mature consideration in the best interests of all communities. Formerly, only those candidates who belonged to the largest group represented in the Assembly could succeed in the elections. He knew of cases where communities whose membership was pretty large had failed to secure representation in the elections from the Assembly to the Council. On the other hand, under the existing arrangement, there was a possibility of every important community getting its candidates returned for the simple reason that the quota or the number of votes required for returning a candidate was small.

Referring to the non-return of Christian and Adikarnatakas at the last elections, he pointed out that there were 80 communities in the State as against 8 seats provided in the Legislative Council for the Assembly constituency and as such, it was impossible for each and every community to secure representation. Naturally, that would become feasible only by combination of groups. If particular individuals like Messrs. Abbas Khan and Subbarama Chetty had got returned under the old system, it was because they happened then to be the leaders of particular parties and not as candidates belonging to particular communities. It was because the old system did not afford scope for all important communities to get representation that it came to be replaced by the new system of proportional representation. Otherwise, various shades of opinion could not be represented in the councils of the State. For these reasons, he opposed the resolution.

MR. S. V. GURUMURTHI ACHARYA SWAMIGALU agreed whole-heartedly with the above views and suggested that the principle of proportional representation which was followed only in the two cities and in the case of multi-membered constituencies might be extended to the mofussils as well.

MR. SIDDALINGAPPA SETTY spoke in favour of the resolution. He was of opinion that the principle of proportional representation would be helpful only when there were well-organised political parties in the State. As things stood, parties came into being only at the time of the elections in order to secure personal ends and ceased to function immediately thereafter and so the new system was not helpful to rural interests, more especially because even nominations by the Government were generally confined to residents of the two metropolitan cities. He was of opinion that the various communities were securing better representation under the old system and so he urged for its revival.

MR. SIDDALINGA DEVARU, who opposed the resolution, had no doubt that the elections by the principle of proportional representation had promoted unity and concord among the Assembly members. To illustrate his point, he cited the success that attended the combination made for the first time between the *Prajapaksha* and *Prajamithra* Parties during the recent elections for the purpose of reaching an understanding about the qualifications of candidates to be returned from the Assembly. As a result of this unity, Mr. Bhashyam Aiyangar had got a thumping majority of the first preference votes, though he did not belong to either of the parties. This clearly showed that the Assembly had risen above communal considerations and was actuated by a desire to serve the larger interests. In the next place, Messrs. Mahomed Imam and Subbarama Chetty were elected on considerations of merit without regard to their communities. As the new system of elections had helped to purge the Assembly of communal virus, he strongly advocated its continuance. But he was against extending it to the interior parts of the State owing to their educational backwardness.

MR. S. C. MALLIAH endorsed the views expressed by the previous speaker.

MR. B. S. PUTTASWAMY also spoke against the resolution. He observed that the statement of Mr. N. G. Sanjeeviah and his supporters that the new system of election had aggravated communal feelings in the elections could not stand scrutiny. For example, though the Lingayets and Vokkaligars formed the largest groups in the Assembly, not one candidate of either group was returned to the Council with the aid of the first votes, while some gentlemen belonging to the minority communities had got in. This showed that even in actual working, the new system of elections was free from communal bias.

MR. K. CHENGALARAYA REDDY strongly supported the resolution. He said that the system of proportional representation was not popular and had formed the subject-matter of an adjournment motion in the last session of the Representative Assembly. Even at the time of its introduction, the speaker had expressed the opinion that Government were attempting to build on weak foundations. He thought that it would have been an ideal system if it had been adopted also in direct elections to the Representative Assembly instead of applying it only to the secondary election from the Assembly to the Council.

As regards the contention that the old system was revised for the purpose of safeguarding the interests of the minority communities against possible aggression by the majority groups, MR. CHENGALARAYA REDDY said that there was no fear of such aggression in the Mysore State. It was undesirable to split the body politic into separate conflicting groups. At a time when the country as a whole was aspiring for national solidarity, any attempt at parcelling out the members into various groups was undesirable. From experience he could prove that minority communities like Indian Christians had actually suffered under the revised system. For example, Mr. Sylvester Pais who had stood as a candidate from the Assembly to the Senate failed to score the required number of votes, though he would have been easily elected under the old system.

The member had no doubt that the principle of proportional representation

had created unnecessary communal prejudices. This was quite clear from the fact that several public workers were denied the first vote. Though this system might be helpful under certain conditions in western countries, it was not suitable to the conditions of this country. He, therefore, pleaded for the revival of the old method of election.

MR. ABDUL KHALEEL SAHIB supported the resolution on the ground that the new system of voting denied scope to members of minority groups to get elected except with the active support of one or two other groups in the Assembly of which they could not be certain.

MR. ABDUL NABI KHAN was also not in favour of proportional representation. He thought that the new system of elections would be helpful to the minority groups only if the minimum quota at each counting was reduced to a half in the case of such groups. He pleaded for special treatment for the Musalmans in this respect.

MR. U. VEERABASAPPA and others expressed surprise that the two previous speakers, having got into the Assembly mainly with the help of non-Musalman voters, should have failed to appreciate the benefits of the existing system of election.

MR. K. M. KRISHNAPPA GOWDA, in supporting the resolution, thought that the object of the Government in introducing the method of proportional representation was not fulfilled. No system of election should give too much prominence to communal considerations. Unless the voters were actuated by a genuine desire to serve the Motherland, the country would not progress. For these reasons, he pleaded for the abolition of the existing system with a view to rooting out the communal spirit prevalent at present.

Khan Bahadur MAHOMED ABBAS KHAN opposed the resolution with the observation that the principle of proportional representation should, under no circumstances, be altered as it was a decided improvement over the old system.

MR. N. G. SANJEEVIAH, in replying to the criticisms against his resolution, spoke as follows :—

There was no doubt that the new system had the effect of introducing communalism in politics. He was sorry that Mr. Abbas Khan should have favoured the new system under which he had been defeated in his attempt to be returned to the Council while in the first two elections which were held under the old system, he had got in by a vast majority of votes. On another occasion, he had got in under the old system to the University Senate as well as to the Industries Board. But under the new system of proportional representation, he failed to secure a seat since he had to depend primarily on the votes of his co-religionists. Each member was tempted under this system to vote for candidates of his own community in preference to any other, however better qualified the latter might be.

Continuing, he held that the defeat of the Indian Christian candidate (Mr. Sylvester Pais) in the last election from the Assembly constituency to the Council had proved that candidates from only those communities whose membership in the Assembly was more than 15, could have a chance of being returned according to the principle of proportional representation. All other minority communities whose membership fell short of this number could never hope to get representation by means of such elections.

Referring to the contention of certain speakers that the old system had resulted in the formation of too many parties in the Assembly, MR. SANJEEVIAH said that there was absolutely no harm in the existence of parties provided each party had a well defined policy of its own, instead of each member of it acting as he liked. If the State's interests should be served, it was necessary to encourage the party system in politics. Otherwise, the representatives would be lacking in discipline and might not realize their duties and responsibilities to their respective constituencies. Such an

advantage could never be gained if the elections proceeded on communal considerations as under the new system.

He therefore appealed to the Assembly to pass the resolution.

Before the resolution was put to the vote, the FIRST MEMBER OF COUNCIL explained the policy of Government in introducing the principle of proportional representation in elections.

In 1932, Government had appointed a committee with a non-official majority to examine the whole question, with 7 members of the Assembly and 5 Government officers. That committee discussed the question in detail and came to the conclusion, with only one member dissenting, that the previous system was not quite suitable and that a system of proportional representation by means of the single transferable vote should be substituted, and accordingly that system was brought into effect.

The speaker did not agree with the observation of the mover that the object of Government in introducing the new system had not been achieved. This observation had already been falsified by the results of the recent elections. In the previous elections, one or two drawbacks had come prominently to notice. There was a party known as the *Prajamithra Mandali*. Because of the large following which that party had in the Assembly, it was possible for it to have secured all the 8 seats on the Legislative Council. But when another party known as the *Prajapaksha* came into being subsequently, that party could have captured all the seats. Even in the Standing Committees and the Finance and Taxation Committee, they could monopolise all the seats. But that was not the intention of Government. In any constitutional House which was meant to give expression to popular views for the information of the Executive Government, it was necessary that all shades of opinions should be represented and this was the basic principle underlying the adoption of the new system of elections. This object had not been frustrated as alleged but was secured to a large extent. Formerly, it was possible for members of only one party to monopolise all the seats. It was equally possible for one majority party to return all the 8 candidates belonging to one and the same party. But this was not at all desirable. It was essential that members returned to the Legislative Council must be representative of various interests and shades of opinion.

It was complained against the present system that it introduced communal bickerings in elections. That this was not so could be easily seen by analysing the results of the recent elections from the Assembly to the Council. The present Assembly consisted of the following castes and number of representatives :—

Lingayets	...	63
Vokkaligas	...	75
Musalmans	...	21
Brahmins	...	32
Vaisyas	...	14
Others ...	...	59
Total	...	264

The Vokkaliga community had the largest representation. If it was a fact that the new system of election proceeded on purely communal considerations, then the first preference votes should have all gone in favour of a Vokkaliga member. But this was not so since a Brahmin candidate got the highest number of first preference votes. A Musalman and a Vaisya got the next highest number of first preference votes and stood second and third in the order of election with the aid of transferred votes. So that the complaint referred to was baseless.

The results of elections under the new system would be that representation would more or less follow party groupings whether particular parties were based on broad political principles or on narrow communal considerations. But whether it was the former or the latter Government could not be held responsible for it.

Some of the speakers had observed that the new system was complicated in principle and difficult in working. But there was absolutely no difficulty in understanding the system. What the voter had to do was to give the

first preference vote to that particular candidate for whom he had the highest regard and in whom he had the greatest confidence and give the subsequent votes to those whom he preferred next and so on. Was this difficult of working? Was it difficulty for anybody to say whom he held in highest regard? Even a child could say whom it liked best and whom it liked next best and so on.

So the scheme was certainly not so difficult of working as some members seemed to think. For these reasons, the speaker said that Government could not see their way to abolish the present system. They were in fact definitely opposed to the resolution.

The resolution was put to vote and passed by a majority.

Resolution No. 2.

"This Assembly recommends to the Government of His Highness the Maharaja that legislation be introduced by Government early, empowering the High Court or any other court to issue writs of *mandamus, certiorari* and *habeas corpus.*"

MR. C. N. NARASINGA RAO, in moving the above, said that he was thankful to the Government of His Highness the Maharaja for having conferred certain privileges on the people. But certain other privileges enjoyed by the subjects of British India and western countries had been denied to the subjects of the State. This resolution was aimed at securing for the people such other privileges. The Specific Relief Act of British India was introduced in Mysore in 1878 but section 45 had been carefully omitted therefrom. The reason for this omission was not known to anybody. If that section also had been included in the law, any subject of the State could apply to the High Court for the issue, for example, of a writ of *mandamus*. The High Courts of Madras, Bombay and Calcutta had been given power to issue writs of *mandamus* and the Mysore High Court which had the same independent status ought to have the same power. There was real necessity for obtaining such writs in election disputes for example. It might be that in connection with elections, the list of qualified candidates required revision. But the officers concerned might refuse to take action on representations made to them in this behalf. Unless a writ of *mandamus* could be obtained, there was no means open to anybody to compel the concerned officers to revise the lists. Secondly, there were actually a number of cases in which land acquisition officers failed to pass awards for years together and the raiyats were seriously inconvenienced on such account. If section 45 had been adopted, anybody could go up to the High Court and get an order to the effect that the officer concerned in a particular case must pass the award within a stated time. Similarly, appeals in regard to income-tax cases were not enquired into at all. If the law about *mandamus* had been in force, the appellants could have applied to the High Court and got the cases enquired into compulsorily. Also, there were instances of police officers arresting persons as and when they liked without adequate reasons and causing hardship and discomfort to every innocent person. If the provision relating to *habeas corpus* had been in force, such persons would have applied to the High Court and prevented the police officers from taking such action. Section 491 of the Criminal Procedure Code, as in force in British India, was conspicuous by its absence in the Mysore Code. On account of this, the subjects of the State were experiencing a peculiar kind of hardship in Mysore. These were days of democracy and people had a right to enjoy all rights and privileges which their compeers in British India enjoyed. In this view, it was necessary that legislation was enacted empowering the Mysore courts to issue the writs referred to in the resolution.

MR. K. T. BHASHYAM AIYANGAR, in seconding the resolution, said that perhaps the necessity for legislation in the manner suggested had not been clearly explained by the mover. In order to explain to the House clearly what exactly was meant by the resolution, he said that with regard to income-tax cases the assessees had no power to

compel the Government to enquire into appeals or to refer the papers to the High Court, though the Government could do it at their own choice. If therefore the High Court was empowered to issue writs of *certiorari*, any assessee could apply to the High Court which would call upon the Government or the departmental officers to forward the papers to them for enquiry. Under the same law any ratepayer could compel the municipal or other concerned authority to include his name in the list of voters or candidates as the case may be. At present such inclusion could be obtained only after considerable difficulty and that, not always. Another inconvenience that existed at present for want of this provision was that even though every ratepayer had the privilege of appealing, the enquiry was too elaborate in process and the disposal itself was often delayed, so much so that, sometimes, before an appeal was disposed of, the elections themselves would have been over. This law of *certiorari* was not a new provision. It existed in some places in India and also in western countries. By introducing it here, the Government would not be inconvenienced in any manner.

The writs of *mandamus* were also necessary like the *habeas corpus*, under which anybody who was put in prison might secure the liberty of movement. It might be argued against the resolution that these writs were not necessary in view of the provisions of section 100 of the Criminal Procedure Code and other provisions relating to bail. To that argument his answer would be that apart from wrongful confinement and complaints of that nature, *habeas corpus* would be necessary to enable a sympathetic neighbour to interfere in cases where a father in view of second marriage, etc., might be ill-treating his own children. At present, if a neighbour complained against ill-treatment of children by their own father, the courts would naturally not take action. Secondly, in British India, in addition to section 100 of the Criminal Procedure Code as well as those relating to bail, etc., they still had the provision in respect of the writ of *habeas corpus*. For these two reasons there was nothing to prevent a similar power being given to the High Court in Mysore as in British India. Like any other good government, Mysore also should provide for it with a view to create new facilities for the people. He would therefore appeal to the Government to accept the resolution and make provision for the issue of the writs as suggested in it.

MR. H. B. GUNDAPPA subscribing to the views expressed by the mover and the seconder of the resolution said that the Mysore High Court appeared to enjoy all the dignity attaching to other High Courts of India, but did not enjoy the privileges which they did. He therefore wanted the privileges enjoyed by other High Courts be conferred on the Mysore High Court also.

On behalf of the Government, the SECOND MEMBER OF COUNCIL made the following observation : —

The resolution related to three matters, namely *mandamus*, *certiorari* and *habeas corpus*. Dealing with the second item first, namely *certiorari*, he feared that the correct position had not been explained by any of the previous speakers. That writ dealt with cases in which it was necessary to obtain records from lower courts. In this respect the common law already provided enough scope, that is in the Criminal Procedure Code as well as in the Civil Procedure Code. According to it, the courts enjoyed certain revisionary powers in exercise of which they could call upon any subordinate court to submit to them records. In this view there was no special need to empower High Courts to issue writs of *certiorari*.

As regards the writ of *mandamus*, it was necessary to remember that section 45 of the Indian Specific Relief Act was a special provision given to particular courts probably under a special set of circumstances. In England it was a very old provision of law. The Court of Record of England exercised this power from time immemorial. The supreme courts of India had the power in the beginning and they enjoyed whatever powers the High Courts of

England had. But at the same time all the High Courts in India did not have the powers even under section 45 of the Specific Relief Act. It was only the Madras, the Bombay and the Calcutta High Courts that enjoyed the privilege and that was subject to two big restrictions, namely that it was confined to the original side and day to day application only in the presidency towns. The High Courts of the Punjab, United Provinces and Allahabad did not enjoy that power. So, it would not be accurate to say that all High Courts in British India enjoyed a power which the Mysore High Court alone did not. The Mysore High Court ordinarily had no original jurisdiction. Only subordinate courts had it. Under such circumstances any suggestion that our High Court, which was an exalted court, should be given certain special privileges which under the English Common Law some High Courts enjoyed for historic reasons and in a restricted sphere in the historical evolution and as a historical remnant, would have to be advanced with a good deal of caution.

MR. B. S. PUTTASWAMY interrupting asked whether there was any harm in giving these special powers to the High Court merely because it had no original jurisdiction.

THE SECOND MEMBER OF COUNCIL said that it was not a question of there being any harm but one which must be decided with due regard to previous history and present necessity. It might be that in a particular case one officer of Government might not do his duty. But, on that account, to say it would be necessary to issue a writ of *mandamus* in all cases to compel officers to do their duty would not be a very reasonable view to take, and if this was done, probably the High Court as well as the officers concerned would have no time to do any other work. He was somewhat surprised at the suggestion that the special power referred to would be necessary to deal with income-tax appeals. Particularly with regard to income-tax cases, whatever step was taken under the Regulation, there was room for appeal to a higher officer at every stage. If any point of law was involved, the party concerned might compel the officer to make reference to the High Court and if the officer did not make a reference it was open to the party to bring an order from the High Court. So, every act done by any income-tax officer was regulated by a provision of the law and at every stage the party was free to prefer an appeal. So, the suggestion that the High Court should issue a writ of *mandamus* and interfere in these appeals seemed to him very wrongful. If in any case there was no other remedy, the High Court certainly had the power to interfere even on the original side. But whether there was necessity and urgency for a measure like this in Mysore was a thing of which he was not sure.

With regard to the issue of writs of *habeas corpus* and the inclusion of section 491 of the British Indian Criminal Procedure Code in the Mysore Code, he said that it would be useful to go into the history of the matter which neither the mover nor his supporters had done. Formerly, the Madras, Bombay and Calcutta High Courts had this power. But this was also a part of the powers enjoyed by them as supreme courts. In 1923, however, when the Criminal Procedure Code was amended, that power was given to all the High Courts in British India. The writ of *habeas corpus* was a very old writ under the English common law. If the original purpose of it was considered, members would see that because the executive took too much power into their hands and the people's rights were interfered with, as was the case when the constitutional struggle of the 17th century was on, the legislatures made the provision in the form of a statute. What was the position in Mysore? The executive had no power whatever in these matters. Whatever step they took would have to be taken as per law, and the rule of law bound the Government as well as the executive now-a-days as much as it did any private person. This was a point which had to be borne in mind very clearly by everybody. The executive were not exercising unrestricted powers which they exercised

centuries ago. If any officer took any action he liked, the law provided all possible remedies in the shape of appeals.

With regard to election difficulties referred to, he said that the Municipal Regulation provided for appeals even in this matter. Similarly, if a land acquisition officer failed to pass orders of award, it was a matter of executive delay and if such instances were brought to notice, the Government would certainly take whatever action was called for. No High Courts would interfere in regard to Acts which provided for all possible remedies. Of course they might interfere in very urgent or exceptional cases, and in such cases a writ of *habeas corpus* could give the needed relief. But, remembering that every Regulation provided appropriate remedies, it would be found that there was no need for such a provision in Mysore.

Another circumstance to strengthen this view was that the right of suit against Government had been conceded in the State. In British India, however, there were cases in which, despite the absence of specific statutory powers, the High Courts had given many decisions, *i.e.*, as a sort of inherent right the High Courts there enjoyed certain privileges. For the last 20 or 30 years there had been an agitation that other High Courts should be given those powers. But they had not been given, not because they should not be given but because proper safeguards had been provided in the common law. Similarly, in Mysore there was no necessity for the new legislation proposed because adequate remedies already existed in the Regulations in force. In these days of reign of law, when everything was done according to rules and Regulations even by Government, he was of opinion that no case had been made out for the grant of the new powers to the High Court and other courts.

In replying to the debate, MR. K. T. BHASHYAM AIYANGAR said that one of the points adduced by the Second Member against the resolution was that even the executive was law-abiding and therefore the High Court was not in need of any special powers as recommended. But, it was not only to provide for remedies against the executive that it was suggested that courts should be given special powers. As had already been mentioned, children in some cases were held under bondage by their own fathers due to various circumstances. In such cases, it must be competent for anybody to interfere and bring to notice of the courts that their interference was called for.

Again, the Second Member was pleased to say that action might be taken on the lines suggested by him if necessity for it was found. But the speaker would personally suggest that instead of waiting for necessity to arise and then taking action, it would be better to take anticipatory or preventive action. If, for example, in an election appeal the appellate authority ordered that a particular candidate was not qualified to stand for election or a particular voter was not competent to exercise his vote when in fact such candidate or voter had the right of exercising his privilege, what was the remedy? A writ of *certiorari* was the only remedy.

Then again, the Second Member was pleased to say that the High Court even now had certain revisionary powers and therefore the grant of additional power of issuing writs of *certiorari*, etc., was not called for. In this connection the speaker said that the exercise of revisionary powers would not answer all the cases, because they would have reference only to cases in which courts subordinate to the High Court had taken any proceedings. But the power of issuing writ of *certiorari* would have effect not only on the work of subordinate courts but also on special tribunals if any constituted for particular purposes as well as other authorities.

As regards land acquisition cases to which also reference had been made, he said that when a house was notified to be acquired for any public purpose the owner thereof would not secure tenants to occupy the house because they might not be sure of a long enough lease. At the same time the acquisition proceedings also might be delayed in-

definitely and in some cases probably also dropped. In such a case, the house-owner would be put to considerable loss and inconvenience and there was no way open to him to get the needed relief. If the High Court could issue writs of *mandamus* or *certiorari*, it could compel the acquisition officers either to take prompt action within a stated time or to drop the proceedings for good. In all such cases, if Government refused to take action as indicated, he feared that members of the House would be very much discontented with the attitude of the Government. He therefore appealed to the Government to consider how far the resolution could be accepted even if they thought that it was not necessary to empower the High Court to exercise all the three powers mentioned above.

THE SECOND MEMBER OF COUNCIL observed that the power of issuing writs of *certiorari* was not mentioned in any British Indian Acts, more especially with regard to enabling High Courts to interfere in petty cases. There was no information available to show as to when certain High Courts got that power. Though some courts were exercising that power long ago, many of them had now almost forgotten it. He was not aware whether even in former days this power was exercised in regard to petty cases like land acquisition cases. For his own part he thought that no High Court would ever contemplate the issue of a writ of *certiorari* or a writ of *mandamus* in petty pending cases, revenue, judicial or otherwise.

MR. C. N. NARASINGA RAO interrupting enquired whether it would not be necessary to exercise such a power where cases were pending for a number of years together.

THE SECOND MEMBER OF COUNCIL asked whether Mr. Narasinga Rao was in a position to quote any authority to show that there was a statutory recognition of such a power. He thought that the sooner the mover and the supporters of the resolution dropped the idea of empowering the High Court to issue writs of *certiorari* as applied to petty cases like land acquisition cases, *darkhast* applications and so on, the better it would be for them.

MR. B. S. PUTTASWAMY suggested that in that case the Government might accept the resolution only in so far as the writs of *habeas corpus* and *mandamus* were concerned.

THE SECOND MEMBER OF COUNCIL observed that even in respect of these two writs the resolution seemed to be based upon an imperfect or wrong understanding of the position. There was no gainsaying the fact that there was enough safety for the subjects of the State under the existing Regulations. Arbitrary exercise of power was most improbable under the present state of rule of the law in Mysore. So, under the present circumstances, he thought that there was no need to accept the resolution to any extent whatever.

The resolution was thereupon put to vote and carried none voting against.

Resolution No. 3.

"This Assembly recommends to the Government of His Highness the Maharaja to advance loans free of interest to the city and town municipalities in the State specially ear-marked for the construction of simple and sanitary dwellings to the sweepers, scavengers and road-makers employed under the municipalities."

In moving the above resolution, MR. T. RAMACHANDRA observed that the poorest of the poor were scavengers and sweepers on whom depended the health, sanitation and cleanliness of cities and towns. But unfortunately they happened to be the most neglected part of the population. The question of affording them some amenities, particularly healthy dwelling quarters, was one to which the Government and the people alike should give first attention. In the course of many talks he had with responsible non-official gentlemen in the moffusils as well as the two cities, he had been assured of their support to the scheme mentioned in the resolution. But, at the same time, the main difficulty was that every municipality was complaining of want of funds to put the scheme into execution. A few of the municipalities might be inclined even to borrow in the open market for pushing the scheme through. But

under the Regulations, they had no power to do so without the specific sanction of Government. The only way open to them was to approach Government for subsidies or grants or loans, but the Government in their turn had their own financial difficulties and could not extend help to them. He would therefore appeal to the Government to consider this as a most important question deserving of the foremost consideration. He would appeal to the Government and the House to remember that scavengers and sweepers in almost every place lived in a most wretched condition and were anxiously looking for any special help which the Government and the public might be pleased to extend to them. Members of the Deena Seva Sangha at Malleswaram, Bangalore, had travelled from place to place and surveyed the conditions of life of these unfortunate people in many a city, town and village and had come to the conclusion that immediate action was necessary to provide them with better living quarters. Important cities of British India like Allahabad and Delhi had taken up this question; and funds permitting, the Bangalore City Municipality also was prepared to work the scheme on a large scale to help these poor people. The Commissioner of the City Municipality had observed that unless those people were provided with better living quarters, the health and sanitation of the entire city would be affected and all citizens would be exposed to risks. Bearing this in mind the Government must be pleased to give liberal grants to the Bangalore City Municipality as well as other municipalities for building a number of houses each year and allowing sweepers and scavengers as also road-makers to occupy them. The special committee of the Calcutta Corporation surveyed the conditions in Calcutta and finding a great need to provide quarters for their own scavengers and sweepers have recommended a sum of Rs. 3 lakhs being ear-marked every year for the next five years for the purpose.

THE DEWAN remarked that the Corporation had provided houses for them and not the Government.

MR. T. RAMACHANDRA replied that there was no necessity for the Government help because the Calcutta Corporation was in affluent circumstances. City and town municipalities in the State were getting grants from the Government for lay out of extensions and maintenance of roads and lights and water-supply connections, and all these could be kept well only if their scavengers and sweepers were enabled to live healthy lives. If one looked at the quarters occupied by these labourers, one would be moved at their condition; they were crumbling thatched huts, bereft of light, bereft of drains, bereft of everything which all others enjoyed, and yet it was these people that were expected to sweep the roads, to clean the latrines and to clear the drains. Continuing he said that as a practical man he would not ask the Government to give large grants to the municipalities for the purpose of providing quarters for these unfortunate people. But he would only ask the Government to give loans without interest or if this was not possible at low rates of interest, to municipalities with a direction that they should allot free of cost small sites and build thereon small houses for the occupation of these people. Mahatma Gandhi to whom the Bangalore City Municipality recently presented an address was pleased to observe on the first day of his visit that Bangalore was a very nice place but the very next day, when he happened to visit the small dirty houses of these labourers, he shed streams of tears and remarked that they were no better than rat-holes. His Highness the Yuvaraja of Mysore as also the Dewan were quite aware that these people deserved to be provided with much better quarters. Government had extended special financial assistance for the formation of new extensions in Mandya and Nanjangud and other places with a view to provide decent quarters for poor men. If the same policy was pursued in other places with a special eye to improving the lot of these labourers, their condition was bound to improve at no distant date. He would only appeal to the House to remember that after all they were also

human beings, that they were serving the public and deserved every consideration possible at their hands. He requested the House to vote for the resolution in one voice and also the Government to accept the resolution and see that as far as possible the suggestion contained in it was given effect to.

MR. P. SUBBARAMA CHETTY in seconding the resolution said that the scheme had reference not only to the Bangalore City Municipality but to every other municipality, city and town. The Bangalore City Municipality had at least done something in the way of giving effect to the scheme; but others were not in a position even to try the experiment. It was necessary for the Government to give liberal financial aid to every municipality and see that the scheme was given all chances of success. If this was done, the health conditions all over the State would improve and the expenditure to the State under medical aid would materially go down. Government of course had their own financial difficulties but remembering on the one hand that the Harijans stood in need of immediate help and on the other hand that the credit of the State was high and loans at low rates of interest could be raised, the Government should make up their mind to borrow enough money and distribute loans on a large scale to all the municipalities that were desirous of giving effect to the scheme.

THE SECOND MEMBER OF COUNCIL said that Government were entirely at one with the scheme suggested by the mover of the resolution and also agreed that all the municipalities must put the scheme into execution to the extent possible. And though this was a primary responsibility devolving on the municipalities, Government would also see what financial help could possibly be extended to them. In this view, he suggested that all municipalities might go ahead with the preparation of suitable schemes for submission to Government.

MR. SUBRAMANYA SWAMI suggested that the Government themselves might prepare designs and instruct the municipalities to construct houses in accordance therewith.

THE SECOND MEMBER OF COUNCIL replied that Government would be too glad to give such assistance to all the municipalities asking for the same. But, at the same time, it would not be practical politics to expect even small municipalities to lay out sites and build houses in accordance with first, class designs suitable, for example, to Bangalore and Mysore City Municipalities.

MR. S. V. GURUMURTHYACHARYA SWAMIGALU suggested that municipalities might be asked first to allot free sites as a condition precedent to the grant of loans by the Government.

THE SECOND MEMBER OF COUNCIL observed that it was the primary responsibility of a municipality to provide houses for their employees if they so desired. But because Government were in favour of the resolution under discussion, all the municipalities need not be under the impression that Government were going to give large loans to all of them at once. Nor was it advisable for the Government to compel every municipality to give lands free of cost to all their employees.

MR. P. SUBBARAMA CHETTY represented that the loan of one lakh of rupees recently sanctioned by Government was all meant for the formation of extensions with a view to remove the congestion in the city and that nothing would be left out of it for the purpose of building quarters for Harijans. So, he wanted a fresh loan to be sanctioned for this purpose.

THE SECOND MEMBER OF COUNCIL replied that even out of the loan referred to, about Rs. 30,000 to 40,000 would be left over for being used in furtherance of the scheme under discussion, but there was also another scheme which the Commissioner had just brought to the notice of the Government, *i.e.*, about providing houses for scavengers and sweepers. For this latter purpose the Government were going to sanction a special loan apart from the one lakh of rupees referred to above. Similarly, in respect of other municipalities which were in favour of giving effect to this scheme, Government would consider to what extent they could grant loans at reasonable rates of interest.

MR. T. RAMACHANDRA thanked the Government for their sympathetic assurance and hoped that if all the municipalities send up their proposals the Government would view them with sympathy and give liberal financial aid.

The resolution was not pressed.

Resolution No. 4.

MR. H. K. MADAIAH moved the following resolution :—

"This Assembly recommends to the Government of His Highness the Maharaja the establishment of a land mortgage bank in each taluk headquarters to give relief to the villagers of all communities as they are all too poor except one or two communities who are well-to-do and as the rains have been inadequate during these 8 or 10 years and even the little crops harvested did not fetch adequate prices and consequently 99 per cent of the people are indebted and have no capital to take to business."

Before the mover proceeded to explain the resolution, the DEWAN assured him that the idea of Government was to start land mortgage banks as soon as and in as many places as possible, but it was essentially a question of funds, and so the scheme could only be given effect to as funds became available. The land mortgage bank authorities also were entirely one with Government with regard to the desirability of opening branches at least in important places.

THE FIRST MEMBER OF COUNCIL added that Government had just sanctioned the opening of a land mortgage bank at Tiptur.

MR. B. SRINIVASA RAO suggested that land mortgage banks be opened at all-district headquarters to begin with.

The resolution was not pressed.

DEWAN'S CONCLUDING REMARKS.

LADIES AND GENTLEMEN,

We have now come to the end of our labours and before we part I should like to make a few remarks on the more important subjects which came up for discussion at this Session.

Road Traffic and Taxes Bill.

I will first refer to the Road Traffic and Taxes Bill. The discussion on this Bill turned in the main on the taxation proposals. About the necessity for the creation of a Traffic Board as a co-ordinating and licensing authority, there was no dissentient opinion. Suggestions were made about the inclusion of representatives of District Boards, Municipalities and bus-owners in the Traffic Board. I fear that to give representation to every District Board or Municipality would make the Board unwieldy. These, however, are matters of detail and will no doubt be considered at the appropriate stage in the Legislative Council.

The question whether tolls should be continued or abolished was warmly discussed by the House and opinion was divided. Some members contended that tolls should be completely abolished, but others objected to their abolition as tolls form an important source of income to local bodies. Opinion seems to be gaining ground in Madras that the total abolition of tolls was, perhaps, a mistake. I think, personally, that it is advisable to retain tolls, but at the same time to provide facilities for fast moving traffic. This, to my mind, would best be achieved by levying a fixed vehicle tax or service tax on motors and exempting them from tolls.

I am afraid the intention of Government in fixing a maximum limit of service tax was misunderstood. It was never their intention actually to levy this maximum. However, in deference to the wishes of the House, they will have no objection to lowering the maximum to Rs. 30 per seat per annum.

The proposal to levy a toll of two annas on country carts, which at present enjoy an exemption from the payment of interior provincial tolls and some District Board tolls, was unanimously opposed. Government are not convinced by the arguments adduced by the House, but here again out of deference to the wishes of the House they will not go back on the exemptions sanctioned in 1929. These carts will, therefore, continue to remain exempt as before.

I may, perhaps, explain to the House

that the object of the Bill under reference is not to increase taxation on motor buses. The main object is to spread the burden of the tax more uniformly on all public service vehicles to remove cut-throat competition and save bus-owners from ruin by better control and regulation and to bring about uniformity in the rules and rates regarding tolls. The Bill which Government propose to introduce in the Legislative Council on this subject will be of such a flexible nature that it will be quite easy to modify the proposals, if experience gained in actually working them suggests any modifications. I can assure you Government will be quite satisfied if they realise the revenue which they and the local bodies are at present getting from this source.

Reduction of Salaries.

A section, a large section of this House, as also of the Legislative Council, have repeatedly expressed a strong desire that the pay of our Gazetted Staff should be further reduced. It is impossible for Government to subscribe to the opinion that the rates of pay in Mysore are pitched too high. Nevertheless, they went very carefully into the matter and, as a necessary measure of retrenchment in view of the financial difficulties, a salary cut was imposed. After further consideration, they have recently revised the rates of pay in several Departments and are engaged in effecting similar revision in the remaining Departments. The main changes effected in these revisions consist in reducing generally the pay of Heads of several Departments from Rs. 1,400 to about Rs. 1,000 to 1,200, to fix the scale of pay of the bulk of the junior Gazetted Staff at about Rs. 200 to 400 and also to retard the rate of promotion. These measures will ultimately result in a reduction of about Rs. 3½ lakhs. Let me emphasise the fact that this saving has been effected mainly in the pay of the Gazetted Staff.

A pure and efficient body of public servants is an invaluable asset to a State and an indispensable essential of good Government. The Mysore Government can well lay claim to have such a body and one should hesitate to do anything to damage such a valuable asset. Those of you who look at the question in a dispassionate manner will, I have no doubt, agree that Government have gone as far as it was possible and desirable to go. Any further reduction would mean certain loss of efficiency and would not be in public interest. As it is, I am not sure if we have not gone too far in some Departments at any rate.

Seasonal Conditions.

A good deal of attention has been naturally devoted at this Session to the consideration of the measures that would be necessary if the agricultural outlook which is somewhat uncertain at the moment should worsen. We have past experience to guide us in such a contingency and the discussion has generally served to emphasise the suitability of the measpres laid down in this behalf in the Standing Orders of Government.

Before the recent rains which allayed anxiety to some extent, the attention of all District Officers was drawn to the desirability of keeping themselves in very close touch with the conditions in their respective charges and of adopting appropriate measures of relief as soon as the need for them was felt. The programmes of Famine Relief Works in all the Districts were revised and brought up-to-date and the Deputy Commissioners are now in a position to start works at short notice in order to provide employment for those in need of it as near their homes as possible. The bulk of the works relate to the maintenance or restoration of tanks which would be of permanent benefit to the people. Almost all the State Forests in the State as well as a number of Amrit Mahal Kavals have been thrown open for the free grazing of cattle. Hay collected by the Military Department has been ordered to be reserved for issue to the public, if necessary. Arrangements are being made to cut and prepare hay in the Malnad forests to meet any necessity that may arise later in the year.

The provision for the grant of takavi loans and advances for tank restoration and maintenance works has been increased to the extent of one lakh of rupees and there will not be the slightest difficulty in further enhancing the grant, if necessary.

Village Panchayets which have accumulated funds amounting to over Rs. 30 lakhs in the aggregate are in a position to afford immediate relief where it is needed. Some of them have come forward to open grain and fodder depots. Similar activities on the part of Co-operative Societies will also receive the support of Government.

With regard to grant of remission or suspension of land revenue assessment it is as yet premature to make a definite statement. The extent of relief must depend upon the yield of the crops, both wet and dry, and this again will depend upon the rainfall within the next few weeks. All I can say at the moment is that revenue concessions will be forthcoming in the fullest measure permitted by the rules or by precedent, while more liberal treatment will be accorded, if called for, in exceptional cases.

It is a standing instruction to the Deputy Commissioners that in deciding the areas in which works should be started and the order in which they should be undertaken, they should consult public opinion, especially the local bodies. I trust that Deputy Commissioners will receive full co-operation from the Presidents of District Boards and other non-official gentlemen in any measures of relief that it may be found necessary to adopt from time to time.

In the course of the discussions a proposal was put forward, though I believe it did not meet with strong support, that measures should be taken to control export and internal trade in food grains. This is a matter beset with many practical difficulties. Any interference with the normal channels of trade would be justifiable only in extreme circumstances, which, let us hope, may never arise.

Government are closely watching the situation. I should like to assure you that they are doing and will do all that is possible and will spare no efforts to deal with all cases of hardship, be it the remission of revenue or the supply of fodder.

I now declare the Session closed.

The Kannada translation of the Dewan's Concluding Remarks was then read out by Mr. C. K. Venkataramaiya, Kannada Translator to Government.

On behalf of the members of the Assembly, MR. L. VEMA REDDY offered thanks to the Dewan and the Members of Council for their patient hearing and sympathetic replies for the several representations made in the course of the Session. He also requested that the assurances of loyalty to the person and throne of His Highness the Maharaja and loyal greetings to the members of the Ruling House be conveyed by the Dewan. He particularly expressed the grateful thanks of the Assembly for the constitutional reforms that had been vouchsafed so far to the people of the State.

With three cheers to His Highness the Maharaja the House adjourned sine die *at 11-25 a.m.*

C. SUBRAHMANYA AIYAR,
Secretary,
Mysore Representative Assembly.

BANGALORE,
Dated 5th March 1935.